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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,424	08/17/2001	Eric Eugene. Johnson		4305

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ERIC E. JOHNSON  
10800 ROSE AVENUE  
APT.# 29  
LOS ANGELES, CA 90034

[REDACTED] EXAMINER

NELSON JR, MILTON

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 04/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/932,424</b>	Applicant(s) <b>Johnson</b>
	Examiner <b>Milton Nelson, Jr.</b>	Art Unit <b>3636</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on Jan 6, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4)  Claim(s) 11-20 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 11-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on Aug 17, 2001 is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	6) <input type="checkbox"/> Other: _____

Art Unit: 3636

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: Applicant has not included a brief description of Figures 7 and 7A.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 17-20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the rigid head-support portion and the rigid base portion are included within a single inflatable structure, as set forth in claim 17. In claim 18, it is unclear how an inflatable structure forms when inflated, a rigid base portion, and includes a rigid head-support portion.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3636

5. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 2 of claim 11, it is unclear if “a seat back” is intended to be the same structure as “a seat back” set forth in line 1. Similarly note lines 3 and 8. In line 3 of claim 11, “the back of a seat back” lacks proper antecedent basis. In claim 1, it is unclear if Applicant intends to positively claim the seat back. In line 1, the invention is set forth as a “headrest that can be used with a seat back of a chair”. Such appears to set forth the seat back as only an environment with which to use the invention in. However, in lines 8-9, Applicant sets forth the head-support portion of the headrest as “extending far enough outward from a seat back ...” Such appears to set forth the seat back as part of the invention. Similarly note lines 13-14 where the user’s head is set forth as “in direct contact with said seat back”. It is suggested that appropriate “adapted for” or “adapted to” recitations be incorporated into the claim. Similarly note claim 18. In line 12 of claim 18, “the user’s” lack proper antecedent basis. In claim 20, the recitation “arranged such that said strap loop the weight of said user’s head” is grammatically vague.

*Drawings*

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rigid head-support and base

Art Unit: 3636

portions in combination with an inflatable structure must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 11 and 16, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Dickey et al (4619483). Note the base portion (32) and head-support portion (46).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3636

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**10.** Claim 12, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey et al (4619483) in view of Fishbane (5630651).

The primary reference shows all claimed features of the instant invention with the exception of the head-support portion additionally comprising a convex cushioning portion, on the surface opposite from the base portion containing a deformable and resilient filler material.

The secondary reference conventionally teaches configuring a head-support portion as comprising a convex cushioning portion (50), on a surface opposite from a base portion (42) and containing a deformable and resilient filler material.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the device such that the head-support portion additionally comprises a convex cushioning portion, on the surface opposite from the base portion and containing a deformable and resilient filler material. Such a modification enhances user support and comfort.

**11.** Claim 13, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey et al (4619483) in view of Franzen, Jr (5685613).

The primary reference shows all claimed features of the instant invention with the exception of the means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle.

Art Unit: 3636

The secondary reference conventionally teaches configuring a support with a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Note such in Figure 17.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by replacing the attachment means of the primary reference with a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Such a modification enhances selective securement of the device to a supporting object.

***Allowable Subject Matter***

12. Claims 14 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Amendment/Arguments***

13. Applicant's response filed January 6, 2003 has been fully considered. Remaining issues are detailed in the above sections. Note citations of indefiniteness that remain in the claims. Applicant's arguments regarding O'Connor, Fishbane and Schreiner, as applied under 35 USC 102 are moot in view of the new grounds of rejection.. Fishbane has been applied as a modifying

Art Unit: 3636

reference under 35 USC 103. Fishbane conventionally teaches providing a convex configuration to a cushion structure, wherein the structure includes a deformable and resilient filler material. Such is old and well known in the pertinent art. Franzen Jr. remains applied as a modifying reference for conventionally teaching the concept of providing a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Applicant's arguments regarding the direction in which the straps extend is more limiting than the actual claim language. Applicant is advised that a new grounds of rejection under 35 USC 112, first paragraph, has been applied to claims 17-20. Clarification of the issues related to this grounds of rejection is required.

*Conclusion*

**14.** This Office action has not been made final since it includes a new grounds of rejection not necessitated by Applicant's amendment.

**15.** Any inquiry of a general nature or relating to the status of this application should be directed to the Group Customer Service Representative at (703) 306-5771, or the Group receptionist at (703) 308-1113.

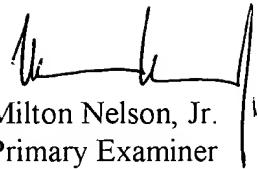
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (703) 308-2117. The examiner can normally be reached on Monday-Thursday from 5:30 AM-3:00 PM. The examiner can also be reached on alternate Fridays.

Art Unit: 3636

The fax number for this Group is (703) 305-76887.

mn

April 3, 2003



Milton Nelson, Jr.  
Primary Examiner